

REMARKS

The above Amendments and these Remarks are submitted under 35 U.S.C. § 132 and 37 C.F.R. § 1.111 in response to the final Office Action mailed December 13, 2006.

Examiner's Action and Applicant's Response

The Examiner has rejected Claims 1, 2, 4-6, and 8 under 35 U.S.C. § 102(b) as being anticipated by Rao, U.S. Patent No. 5,793,410. Claims 3 and 7 have been rejected under 35 U.S.C. 103(a) as being obvious based on Rao in view of Aras, et al., U. S. Patent No. 5,872,588. Applicant respectfully traverses the rejections.

In this amendment, Claims 3 and 7 have been cancelled. Claims 1 and 5 have been amended. After entry of this Amendment, Claims 1, 2, 4-6, and 8 will be pending.

Response to the Rejection of Claims 1-2, 4-6 and 8 under 35 U.S.C. § 102(b) and to the Rejection of Claims 3 and 7 under 35 U.S.C. § 103(a)

The Examiner has rejected Claims 1, 2, 4-6, and 8 under 35 U.S.C. § 102(b) as being anticipated by Rao. The Examiner rejected Claims 3 and 7 under 35 U.S.C. 103(a) as being obvious based on Rao in view of Aras, et al. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. 2131 citing *Verdegal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claim." M.P.E.P. 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 3 depended from Claim 1 and had claimed the method of Claim 1 wherein the step of identifying further comprises: receiving a signal from each receiver of the plurality of receivers, the signal indicating the channel tuned and the previous channel tuned. Claim 7 depended from Claim 5 and had claimed the method of Claim 5 wherein the step of identifying further comprises: receiving a signal from each receiver of the plurality of receivers, the signal indicating the channel tuned and the previous channel tuned. Regarding Claims 3 and 7, the Examiner stated in the Office Action that "Rao fails to disclose wherein said step of identifying further comprises: receiving a signal from each receiver of said plurality of receivers, said signal indicating the channel tuned and

the previous channel tuned.” The Examiner stated that “[i]n an analogous art, Aras discloses that the receivers transmit the Behavior Collection Table which indicates the channels tuned to by the user (channel tuned and previous channel tuned) to the Behavior Collection Center -col. 12, lines 40-45, col. 13, lines 24-28.” The Examiner concluded that “[i]t would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Rao's invention to include that the receivers transmit the Behavior Collection Table which indicates the channels tuned to by the user to the Behavior Collection Center, as taught by Aras, for the advantage of statistical analysis.” Applicant respectfully disagrees.

Applicant respectfully submits that Aras, et al. discloses encoding audio-visual material (AVM) with a unique Audio-Visual Identifier (AVI) in order to identify its content. (Col. 7, lines 30-33). Aras, et al. further discloses that “[t]he behavior collection and reporting mechanisms operate to capture subscriber behavior by collecting (i.e., storing and/or transmitting) the AVI information associated with the audio-visual material presented at each subscriber's home station and reporting this information to one or more behavior collection centers.” (Col. 12, lines 40-45, which was cited by the Examiner). Aras, et al. also states that “[t]he home station monitors the AVM or AVMs selected by the subscriber for presentation. The home station extracts the AVI information accompanying the AVM(s) selected by the subscriber.” (Col. 13, lines 24-28, which was cited by the Examiner). Applicant respectfully submits that the teaching in Aras, et al. of content coding of audio-visual material with unique AVIs and of collecting the AVIs does **not** teach or suggest receiving a signal from each receiver indicating **the channel tuned and the previous channel tuned**, as had been claimed in Claims 3 and 7. Further, AVIs are taught in Aras, et al. as being “...provided at intervals in the audio-visual material.” (Col. 7, lines 34-35). Applicant respectfully submits that **AVIs provided at intervals** do not teach or suggest the channel tuned or the previous channel tuned.

For all of the above reasons, Applicant respectfully submits that neither Aras, et al. or Rao, singly or in combination, teach or suggest wherein the step of identifying further comprises: receiving a signal from each receiver of the plurality of receivers, the signal indicating the channel tuned and the previous channel tuned, as had been claimed in Claims 3 and 7.

Applicant has amended Claim 1 to include the limitations in Claim 3. Claim 3 has been cancelled. For all of the above reasons, Applicant respectfully submits, therefore, that Claim 1 is not anticipated by Rao and is non-obvious based on Rao in view of Aras, et al.

Claims 2 and 4 depend from Claim 1 and are respectfully submitted as not anticipated by Rao and non-obvious based on Rao in view of Aras, et al. for the same reasons as given above for Claim 1.

Claim 7 depended from Claim 5 and had claimed the method of Claim 5 wherein the step of identifying further comprises: receiving a signal from each receiver of the plurality of receivers, the signal indicating the channel tuned and the previous channel tuned. Applicant has amended Claim 5 to include the limitations in Claim 7. Applicant has cancelled Claim 7. Applicant respectfully submits, therefore, that Claim 5 is not anticipated by Rao and is non-obvious based on Rao in view of Aras, et al. for the reasons given above regarding the receiving limitation that had been claimed in Claim 7.

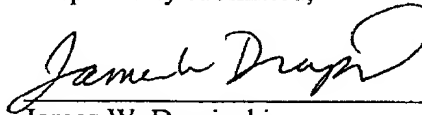
Claims 6 and 8 depend from Claim 5 and are respectfully submitted as not anticipated by Rao and non-obvious based on Rao in view of Aras, et al. for the same reasons as given above for Claim 5.

Conclusion

For the above reasons, Applicant respectfully submits that all pending claims, Claims 1, 2, 4-6, and 8, in the present application are allowable. Such allowance is respectfully solicited

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 984-8200.

Respectfully submitted,



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